

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

DONALD LEE TAYLOR,

Plaintiff,

v.

**Civil Action No. 5:11cv159
(Judge Stamp)**

**DR. DAVID PROCTOR; TRISTAN TENNEY,
Health Service Hospital Staff Administrator;
WEXFORD MEDICAL CORPORATION, and
ADRIAN HOKE, Warden, Huttonsville
Correctional Center,**

Defendants.

REPORT AND RECOMMENDATION

On November 10, 2011, the plaintiff initiated this case by filing a civil rights complaint pursuant to 42 U.S.C. § 1983, along with a motion for leave to proceed *in forma pauperis* (“IFP”). By Order entered on November 22, 2011, plaintiff was granted IFP status, and ordered to pay an initial partial filing fee of \$40.54 within 28 days¹ or the Court would dismiss this action without prejudice.

On December 6, 2011, plaintiff filed a letter motion, requesting a twenty-eight day extension from the date of December 31, 2011, in which to pay his initial partial filing fee. By Order entered on December 12, 2011, plaintiff’s request for an extension of time was granted, giving him until January 30, 2012 to pay the initial partial filing fee.

Upon a review of the file on this date, the plaintiff has failed to pay his initial partial filing fee, has not requested additional time to do so, nor otherwise explained the reasons for his

¹ Twenty-eight days from November 22, 2011 would be December 20, 2011.

noncompliance. Accordingly, it is recommended that the plaintiff's complaint be **DISMISSED without prejudice** for the failure to prosecute pursuant to Rule 41(b) of the Federal Rules of Civil Procedure.

Within fourteen (14) days after being served with a copy of this recommendation, any party may file with the Clerk of Court written objections identifying those portions of the report and recommendation to which objection is made and the basis for such objections. A copy of any objections shall also be submitted to the United States District Judge. **Failure to timely file objections to this opinion will result in waiver of the right to appeal from a judgment of this Court based upon such recommendation.** 28 U.S.C. § 636(b)(1); Thomas v. Arn, 474 U.S. 140 (1985); Wright v. Collins, 766 F.2d 841 (4th Cir. 1985); United States v. Schronce, 727 F.2d 91 (4th Cir. 1984), cert. denied, 467 U.S. 1208 (1984).

The Clerk is directed to send a copy of this Report and Recommendation to the *pro se* petitioner by certified mail, return receipt requested, to his last known address as shown on the docket.

Dated: February 14, 2012.

/s/ James E. Seibert
JAMES E. SEIBERT
UNITED STATES MAGISTRATE JUDGE